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FACT SHEET FOR GULFCO MARINE MAINTENANCE SITE

Site Name:

Gulfc0 Marine Maintenance, Inc. Superfund Site.

Site Location and History:

The Site, consisting of approximately forty acres, is located on the Intracoastal Canal near Freeport, Texas. From 1971 to 1998, the Site was occupied by a barge cleaning operation. The Site had three different owner/operators during this period: Gulfc0 Marine Maintenance, Inc./Chromalloy American Corporation (1971 to 1979); Fish Engineering & Construction, Inc. ("Fish") (1979-1989) and Hercules Offshore Drilling Company/Hercules Marine Services Corporation ("Hercules") (1989 to May 1998). In 1998 Hercules Marine Services Corporation filed for Chapter 7 bankruptcy. Later that year, the Texas Attorney General's Office filed a claim in the bankruptcy on behalf of the Texas Natural Resource Conservation Commission ("TNRCC"). This claim was resolved in 1999 by the sale of a portion of the Site to LDL Coastal Limited, L.P. ("LDL Coastal"). LDL Coastal acquired the property for \$325,000 (value of the property clean is approximately \$2 million) with the understanding that it would be liable for conditions on the property. LDL Coastal did take steps to address some of the conditions on the property by removing 45 drums containing hazardous waste material but did no investigation into the surface and subsurface soil and water. During 2000 and 2001, the TNRCC continued to inspect the Site. The TNRCC screened the Site. Sampling done by TNRCC documented high releases of hazardous substances from the Site to the soil, sediment, and groundwater. Based upon the high documented releases of hazardous substances at the Gulfc0 Site, TNRCC proposed the Site to Region 6 for listing.

The Site was listed on the National Priorities List ("NPL") by EPA effective April 30, 2003. The general notice letter was sent on March 11, 2003, to the landowner and to other Potentially Responsible Parties ("PRPs") regarding the Gulfc0 Site. Between the NPL listing process and the sending of the general notice letter, EPA contacted the current owner of the Gulfc0 Site, LDL Coastal, to gain access to the Gulfc0 Site property and to inform him about Superfund. It became apparent through subsequent calls that LDL Coastal did not understand Superfund or the extent of contamination on his property. It is LDL Coastal's contention (as is all the other PRPs: Dow, Sequa) that the Screening Site Inspection Report and the Hazardous Ranking System Documentation Record, which document high releases of hazardous substances to the soil, sediments, and groundwater, are false. When it became apparent that EPA would be asking LDL Coastal to pay for the remaining cleanup, LDL Coastal attempted to sell the property. When EPA discovered this, EPA placed a lien on the Gulfc0 property.

The Site is currently listed on the NPL.

The Site as listed also includes 2 tracts that were sold by Fish to two former employees of Fish.



The PRPs currently involved at the Site are LDL Coastal, the current owner; Sequa Corporation as successor to Chromalloy American Corporation, a prior owner; and The Dow Chemical Company, a customer of the barge cleaning operations. Documentation on Dow's letterhead indicates that they were 80-85% of Hercules business in a 1989. The other prior owner/operators are either deceased or out of business. EPA has identified other customers but has not found any other company who has sent barges to be cleaned that contained hazardous substances found at the Gulfco Site.

Redevelopment Opportunity:

The Site is situated on the Intracoastal Canal near Freeport, Texas. The property has two large slips or berths constructed for barge handling. In addition, the Gulfco property is diagonal from some residential homes. [During the years of barge cleaning operations, neighbors have complained about the sight and smell of the operations and litigation between the barge cleaning operation and private citizens followed.] EPA believes in reuse for all Superfund Sites. In particular, EPA believes that the Gulfco property has redevelopment potential. This was stated in a October 2004 letter from the Superfund Division Director to the PRPs in response to a letter sent by them requesting a delay in the RI/FS due to their belief that the Site was not that contaminated. EPA has not determined the ideal future use for the property. A RI/FS needs to be conducted in order to determine the nature and extent of contamination and an investigation based upon a particular future use would not be appropriate.

Enforcement:

Upon completion of the Screening Site Inspection Report and the HRS Documentation Record and the mailing of the general notice letters to the PRPs, EPA determined that the next course of action for the Gulfco Site would be to issue Special Notice to the PRPs inviting them to conduct the RI/FS through a AOC and SOW. The Special Notice Letter was sent on July 14, 2004. Dow, Sequa, and LDL Coastal declined to submit a good faith offer instead offering to talk about the issue again in 6 months. Dow then wrote a letter to the Superfund Division Director questioning why EPA was not interested in waiting 6 months considering in their opinion that the Site was not contaminated. The Division Director responded that a RI/FS was the appropriate way to address a contaminated NPL Site. In response, Dow, Sequa, and LDL sent a letter committing to do the RI/FS. The marked up AOC was sent on November 29, 2004. In the ensuing months, EPA has attempted to get a marked up version of the SOW and to get Dow, Sequa, and LDL to negotiate an AOC. Dow, Sequa, and LDL Coastal has come to meetings unprepared, attempted to discuss every other topic but the RI/FS, kept on resubmitting identical comments on the AOC, and failed to submit the SOW until last week. In all of the letters EPA has sent to Dow, Sequa, and LDL Coastal from October through January, EPA has expressed its belief that the negotiations could be wrapped up quickly based on the comments received and that EPA expected a signable AOC and SOW by the end of January. It wasn't until the end of December through a TCEQ call that EPA became aware of Dow's intent to request delisting of the Gulfco Site and have it cleaned up under the Texas Voluntary Cleanup Program (VCP). Dow approached EPA with the idea doing the cleanup under a state program in January.

Issue:

The Site was recommended for listing because of the high levels of releases of hazardous waste

to the soil, sediment, and ground water recorded in sampling done by TCEQ and EPA. The PRPs have reviewed the state cleanup issue with the TCEQ (Meeting with Dan Eden, Deputy Director – Office of Permitting, Remediation and Registration and Jackie Hardee, P.E., Director of the Remediation Division, December 17, 2004), and the TCEQ was noncommittal with regards to receiving the Site back into the state program. The PRPs are very interested in having the Site returned to the TCEQ for investigation and remedy conducted under the State Voluntary Cleanup Program (“VCP”). The PRPs believe the cost will be significantly lower. Based upon the investigative work done to date by TCEQ and EPA in the Site Screening Investigation and contrary to the PRPs’ assessment, TCEQ and EPA have determined that there are many technical issues and a high level of risk at the Gulfco Site. The Site is being assessed in a manner that is cost effective, protective, and encourages redevelopment. The traditional Superfund approach, in contrast to the VCP, is the best approach.

The PRP’s efforts to discuss the possibility of using the VCP for this Site with EPA Region 6 have been declined based upon the Region’s decision that the Gulfco Site would best be served through the Remedial Investigation/Feasibility Study (“RI/FS”) process as detailed in the National Contingency Plan (“NCP”). The Memorandum of Agreement between TCEQ and EPA for the VCP program explicitly prohibits the use of the VCP program for NPL Sites. (http://www.epa.gov/swerosps/bf/pdf/tx_moal.pdf) The PRPs would like to pursue the VCP program and have attempted to discuss the policy implications and advantages for this particular Site with the Office of Solid Waste and Emergency Response. At present, the Region is focused on conducting a RI/FS at the Gulfco Site in order to get the Site cleaned up and redeveloped as quickly as possible. The Region feels that in this case it is inappropriate to depart from the normal superfund cleanup process.